

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

LUCIANO DE SOUZA,

Plaintiff,

v.

MICHAEL CHERTOFF, Secretary of U.S.  
Department of Homeland Security, et al.,

Defendants.

Civil Action No. 05-10476-MEL

**DEFENDANTS' MOTION TO DISMISS OR,  
IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT**

Pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure, defendants Michael Chertoff, Secretary, U.S. Department of Homeland Security; Eduardo Aguirre, Jr., Director, U.S. Citizenship and Immigration Services; and Denis Riordan, Boston District Director, U.S. Citizenship and Immigration Services hereby move to dismiss this action for lack of subject matter jurisdiction. In the alternative, pursuant to Rule 56 of the Federal Rules of Civil Procedure, defendants move for summary judgment. The reasons for the foregoing motion are set forth in the accompanying Memorandum of Law.

Respectfully submitted,

UNITED STATES OF AMERICA

MICHAEL J. SULLIVAN  
United States Attorney

By: /s/ Anton P. Giedt 8/12/05  
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**LOCAL RULE 7.1(A)(2) CERTIFICATION**

Undersigned counsel certifies that pursuant to the requirements under Local Rule 7.1(A)(2), he has conferred with Plaintiffs' counsel and that Plaintiff's in an effort to resolve the issues raised in this motion.

/s/ Anton P. Giedt  
Anton P. Giedt  
Assistant U.S. Attorney

**CERTIFICATE OF SERVICE**

Suffolk, ss.

Boston, Massachusetts  
DATE: August 12, 2005

I, Anton P. Giedt, Assistant U.S. Attorney, do hereby certify that I have this day served a copy of the foregoing upon the Plaintiffs' counsel of record through electronic filing and by first class mail.

/s/ Anton P. Giedt  
Anton P. Giedt  
Assistant U.S. Attorney

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